

ANTHONY L. RICCO

Attorney At Law

20 VESEY STREET, SUITE 400

NEW YORK, NEW YORK 10007

TEL. (212) 791-3919 FAX. (212) 791-3940

STEVEN Z. LEGON, ESQ - OF COUNSEL

July 18, 2020

BY ECF

Hon. Paul A. Engelmayer
United States District Court Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: **United States v. John Garner,**
Docket. No. 14 Cr. 332 (PAE)

Dear Judge Engelmayer:

The above case is presently scheduled for sentencing on August 4, 2020. This letter is submitted to request a continuance of sentencing to a date on or after September 8, 2020. John Garner requests a continuance of his sentencing on the grounds that a national emergency based upon a World Wide COVID-19 pandemic has continued to prevent his preparation for his re-sentencing.

As the court is aware, as a result of the COVID-19 pandemic there has been extremely limited access to the detainees in the custody of the Bureau of Prisons. Over the past several months the Bureau of Prison completely cancelled all attorney/client visits, and has only recently resorted extremely limited video conference meetings. I previously advised the court that John Garner and I have not had an opportunity to complete the review of the Revised Presentence Investigation Report together, nor an opportunity to further develop the defense Sentencing Recommendation. This circumstance has continued. As result, John Garner requests that the court continue his sentencing to September 8, 2020.

Finally, I have advised A.U.S.A. Eun Young Choi of this application, and she has stated that the government does not have an objection. John Garner consents to the above application so that he has a meaningful opportunity to prepare for re-sentencing where he faces an increased guideline calculation under count one of the indictment.¹

Respectfully,

Anthony L. Ricco

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ALR/jh

cc: A.U.S.A. Eun Young Choi (By ECF)

GRANTED. Sentencing is adjourned to September 22, 2020 at 11:00 a.m. The parties shall submit updated sentencing submissions in accordance with this Court's Individual Rules & Practices in Criminal Cases. The Clerk of Court is requested to terminate the motion at Dkt. No. 147.

7/20/2020

SO ORDERED.

Paul A. Engelmayer

PAUL A. ENGELMAYER

United States District Judge

¹ Counsel remains concerned that any delay in the sentencing of John Garner. John Garner is an inmate who is at high risk of exposure to COVID-19 infection, (he has a document history of cancer with treatment by chemotherapy while incarcerated, and hypertension), therefore delay in fact potentiates that risk. See, PSR, ¶ 71 and ¶ 72, page 13. However, as previously stated, due to the COVID-19 pandemic, John Garner simply has not had an opportunity to prepare for re-sentencing. In addition, John Garner has also stated that he wants to exercise his right to be physically present for his sentencing as provided under Rule 43 of the Federal Rules of Criminal Procedure. Therefore, an application for a continuance has been requested so that John Garner has an opportunity to meaningfully prepare and to also exercise his right to be physically present for re-sentencing.